



February 15, 2011

House Agriculture Committee  
Lansing, Michigan

Re: HB 4212-4213 – MAEAP

Dear Representatives,

The Michigan Environmental Council supports the concept of encouraging farms in Michigan to become enrolled in the Michigan Agricultural Environmental Assurance Program (MAEAP). The reduction of fertilizer and pesticides inputs by participating farm can assist Michigan in keeping waterways cleaner.

We think it is important to realize that program participation does not guarantee compliance with environmental laws. A number of the MAEAP verified farms have been found in violation of environmental laws and have paid civil fines to the state. With that in mind, we make the following suggestions for improving the legislation that has been proposed:

#### **HB 4213**

**Protection from civil fines** (pg. 2) – Due to the significant protection afforded by this section, subsection (1)(B)(ii) needs to be clearer regarding who is eligible for the protection from civil fines. Under the current language, it is unclear what constitutes a pattern of violations. Clear guidelines, we believe reduce uncertainty and can increase compliance. We would suggest that this section be limited to no more than one use every two years.

Suggested amendment:

Amend page 2, after line 18, by inserting, (C) THE DEPARTMENT SHALL ONLY UTILIZE SUBSECTION (A) ON BEHALF OF AN OWNER OR OPERATOR ONE TIME IN ANY TWO YEAR PERIOD.”, and relettering the remaining subsections.

**Act-of-God weather event** (pgs 2-3) – This section gives special treatment to discharges that occurred under certain conditions. We believe the focus of this section should be to differentiate between “anticipated” events and “unanticipated” events. We think if the National Weather Service predicts that the chance of rain exceeding ½ inch is above

50%, that it should be considered anticipated. And, "unanticipated" should be those events where the National Weather Service predicts less than 50% chance of them occurring.

Suggested amendment:

1. Amend page 2, line 26, after "AN", by striking "ACT OF GOD" and inserting, "UNANTICIPATED".
2. Amend page 3, line 19, after "(A)", by striking "ACT OF GOD" and inserting, "UNANTICIPATED".
3. Amend page 3, line 23 after, (A), by striking "70%" and inserting "50%".

## **HB 4212**

### **Water Quality Monitoring**

Both bills direct state money to the promotion of MAEAP and to encourage more farms to be verified. However, in the case of the clean water fund it removes the current priority for monitoring water (HB 4213, page 7). We share the desire of others to get more farms to be verified. However, one of the primary purposes of getting farms enrolled is to improve water quality. We are worried that if the measured metric becomes the number of farms enrolled in MAEAP – we may end up with insufficient funding to determine whether it has any impact on water quality. We think that for purposes of measuring success, sufficient resources needs to be dedicated to monitoring water quality and improving practices to reduce the discharge of pollutants into our waterways. Any data generated from the use of public money should not be exempt from disclosure.

Suggested language:

Amend page 18, line 7, after "15.246" by inserting, "IF PUBLIC FUNDS WERE UTILIZED TO GENERATE WATER QUALITY DATA, THAT DATA IS NOT EXEMPT FROM DISCLOSURE UNDER THE FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL 15.231 TO 15.246."

Sincerely,

  
James Clift, Policy Director